

§ 2101.52 Procedural criteria under E.O. 11652.

(a) The material must have been classified by a properly authorized individual;

(b) The material must have been properly marked. For documents prepared after the effective date of Executive Order 11652 (June 1, 1972), this must especially include its classification, whether it is subject to or exempt from the General Declassification Schedule, and the highest level individual that authorized classification in each case. Documents prepared prior to June 1, 1972, must have been properly marked pursuant to the rules of the appropriate Executive Order then applicable.

§ 2101.53 Substantive criteria under E.O. 11652 for material under ten years old.

(a) Material must be classified "solely on the basis of national security considerations. In no case (may material be classified) in order to conceal inefficiency or administrative error, to prevent embarrassment to a person or Department, to restrain competition or independent initiative, or to prevent for any other reason the release of information which does not require protection in the interest of national security."

(b) To be classified "Top Secret," it must reasonably be expected that unauthorized disclosure of the material would "cause exceptionally grave damage to the national security." Examples are:

(1) Armed hostilities against the United States or its allies;

(2) Disruption of foreign relations vitally affecting the national security;

(3) The compromise of vital national defense plans or complex cryptologic and communications intelligence systems;

(4) The revelation of sensitive intelligence operations; and

(5) The disclosure of scientific or technological developments vital to the national security.

(c) To be classified "Secret," it must reasonably be expected that unauthorized disclosure of the material would "cause serious damage to the national security." Examples are:

(1) Disruption of foreign relations significantly affecting the national security;

(2) Significant impairment of a program or policy directly related to the national security;

(3) Revelation of significant military plans or intelligence operations; and

(4) Compromise of significant scientific or technological developments relating to national security.

(d) To be classified "Confidential," it must be reasonably expected that unauthorized disclosure of the material would "cause damage to the national security."

(e) Examples of material exempt from release because it is classified pursuant to a statute are:

(1) Restricted Data (42 U.S.C. 2162);

(2) Communication information (18 U.S.C. 798);

(3) Material relating to intelligence sources and methods (50 U.S.C. 403(d) (3) and (9)).

§ 2101.54 Substantive criteria under E.O. 11652 for material over ten years old.

(a) Classified information or material furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence;

(b) Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods;

(c) Classified information or material disclosing a system, plan, installation, project or specific foreign relations matter the continuing protection of which is essential to the national security;

(d) Classified information or material the disclosure of which would place a person in immediate jeopardy.

Subpart G—Partial Release**§ 2101.61 Release of "reasonably segregable portion" of requested classified material.**

(a) The amended Freedom of Information Act requires that "any reasonably segregable portion of a record shall be provided * * * after deletion of the portions which are exempt."